

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.81.304 pertaining to) PROPOSED AMENDMENT
Pharmacy Access Prescription Drug)
Benefit Program (Big Sky Rx))

TO: All Concerned Persons

1. On November 26, 2008, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the Wilderness Room of the Colonial Building, at 2401 Colonial Drive, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on November 17, 2008, to advise us of the nature of the accommodation that you need. Please contact Rhonda Lesofski, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-1970; or e-mail dphhslegal@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.81.304 AMOUNT OF THE BIG SKY RX BENEFIT (1) An applicant eligible for the Big Sky Rx PDP premium assistance may receive a benefit not to exceed ~~\$33.14~~ \$33.19 per month. The benefit amount will not exceed ~~\$33.14~~ \$33.19 regardless of the cost of the premium for the PDP the individual chooses.

(a) If a portion of the applicant's PDP premium is paid through the Extra Help Program, the Big Sky Rx Program will pay the applicant's portion of the PDP premium up to ~~\$33.14~~ \$33.19 per month.

(b) remains the same.

(c) All expenditures are contingent on legislative appropriation. The amount of the monthly benefit, ~~\$33.14~~ \$33.19, extends the Social Security Extra Help benefit amount to Montana residents with income up to 200% FPL. The department's total expenditure for the program will be based on appropriation and the number of enrolled applicants.

AUTH: 53-2-201, 53-6-1004, MCA

IMP: 53-2-201, 53-6-1001, 53-6-1004, 53-6-1005, MCA

4. The Department of Public Health and Human Services (the department) is proposing amendments to ARM 37.81.304, pertaining to the Big Sky Rx maximum benefit amount. The Big Sky Rx Program is a Medicare part D prescription drug plan subsidy for low-income individuals. The proposed rule changes are necessary to match the maximum monthly benefit amount under Big Sky Rx to the maximum low-income subsidy available from the federal government through its Extra Help Program. The proposed rule would increase the maximum benefit from \$33.11 a month to a maximum of \$33.19 a month.

Description of proposed rules changes

The department is proposing amendments to ARM 37.81.304 pertaining to the amount of the Big Sky Rx benefit to slightly increase the maximum monthly benefit available to Big Sky Rx enrollees. The proposed amendments would change the present assistance amount of \$33.11 to \$33.19 per month.

The Big Sky Rx Program is a premium subsidy program operated pursuant to Medicare Part D of the Social Security Act and Montana law. According to the applicable federal regulation, 42 CFR section 423.780, full low-income subsidy individuals are entitled to a premium subsidy equal to 100% of the lesser of the plan's premium for basic coverage or the regional low-income premium subsidy amount. The Centers for Medicare and Medicaid Services (CMS) are charged with calculating the regional low-income premium subsidy. The 2009 low-income premium subsidy amount for Montana is \$33.19.

A copy of the regional low-income premium subsidy amounts can be viewed on the Department of Public Health and Human Services web site at www.dphhs.mt.gov/legalresources/ruleproposals/index.shtm.

To obtain a printed copy of the Part D low-income subsidy amounts for 2009, please contact the department at Department of Public Health and Human Services, Health Resources Division, Acute Services Bureau, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

Alternative considered

The department considered and rejected the alternative to the proposed amendments - that would be to make no changes to the existing maximum benefit amount. This would have resulted in a maximum benefit amount lower than that available through the Extra Help Program. Consequently, some low-income Montanans would experience greater out-of-pocket expenses for Part D prescription drug coverage or would have to seek a Part D plan with a lower premium. The result would be contrary to the purpose of the low-income Medicare Part D program.

Fiscal Effects

The department estimates the annual financial effect of a monthly increase of \$0.08 in benefit payments for those consumers receiving full premium assistance from Big Sky Rx to be \$5,760 based on 6,469 consumers enrolled in Big Sky Rx as of August 1, 2008. Big Sky Rx is funded by state special revenue only. No federal funds are involved.

Number of persons affected

The number of persons affected by the proposed amendments would be about 6,469 based on those enrolled in Big Sky Rx as of August 1, 2008.

5. The department intends to apply the proposed amendments January 1, 2009.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Rhonda Lesofski, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-5622; fax (406) 444-1970; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., December 4, 2008.

7. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ John Koch
Rule Reviewer

/s/ Joan Miles
Joan Miles, Director
Public Health and Human Services

Certified to the Secretary of State October 27, 2008.